Date: Tue, 17 Jan 2006 13:36:11 -0800
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Subject: Memo RE: Level of Protection Assesment Issues.

To: **Mike DeLapa, John Kirlin, John Ugoretz**

From: **Howard Egan**

Date: **January, 16 2006**

Subject: **Levels of Protection Issues**

The simplified SMCA protection level designation scheme was introduced on November 29. Now that I've had a few weeks to digest it, I've found several serious flaws in the scheme.

1. Low protection is considered essentially zero protection. This must be reserved only for MPAs that allow directed fishing effort at species likely to benefit. I.e. an SMP like Cambria, or an SMCA like the Pacific Grove SMCA. Citing rockfish bycatch as a reason for equating the protection level of an MPA that only allows salmon fishing to one that allows targeted rockfish take is simply not credible.
2. Protection levels must be assessed on an MPA-by-MPA basis, not based solely on some arbitrary formula which may or may not accurately depict the true level of protection. The situation at each MPA is unique and must be evaluated accordingly.
3. Protection levels must account for the actual goals and objectives of an MPA. If an MPA that prohibits the take of rockfish has an objective of protecting rockfish, but not necessarily conserve or enhance biodiversity, then it's protection level should be high even if fishing for coastal pelagics is allowed.
4. Regarding the Salmon fishing allowed in waters shallower than 50 meters issue: this criteria is clearly being abused. If an SMCA is predominately greater than 50 meters in depth the protection level should be characterized as medium or high.
5. On December 19, John Kirlin sent out an e-mail clearly directing that MPAs be evaluated based on the proposed regulations regardless of the presence or absence of a leased kelp bed. I am seeing that this direction is being ignored in the staff's habitat and protection level analysis.
6. Certain MPAs specified, for example the Monterey Bay No Trawl MPA, have substantial portions with protections that are higher than identified by staff because Federal MPA designations are being ignored. In this example, the overlap between the non-trawl RCA and the MPA is approximately 50% and this constitutes a no groundfish take area. Again, this points to the need for detailed individual analysis, and lack of compliance with the commission's direction to account for Federal MPAs.
7. At this stage the SAT is supposed to be charged evaluating whether or not the proposals meet the SAT guidelines adopted by the commission (as opposed to those presented during the November 05 BRTF meeting), and recommending ways to make proposals meet those guidelines where they fall short. Guidance during the November RSG meeting stated that the

SAT is explicitly not charged with comparing the merits of various proposals, or saying this proposal is good and that proposal is bad. The level of protection scheme as proposed seems a convenient mechanism for comparison, but doesn't seem to have much utility for actually evaluating compliance with the guidelines.

8. Most importantly, I am unable to find any evidence of any official decision by the SAT to adopt the protection level scheme being used.

At first I agreed with the concept of levels of protection. It seemed logical. In fact it the ***concept*** still seems logical. However, in looking back over the SAT guidelines and then comparing that to the way the levels of protection have been manipulated, I can't say that it's being implemented in a logical way. Moreover, there is no way at this stage of the game that anything other than a purely subjective assessment can be done. At this point it just seems like manipulation. A prime example of this is equating by-catch while Salmon fishing to directed effort.

I would suggest that the entire concept be re-done from scratch, and with the assistance of outside fisheries scientists who are familiar with what effect the MPAs being proposed will have on the levels of protection.

I would also like to make one other suggestion. One of the clearest mistakes in this level of protection scheme is the granularity of the scheme. Again, equating an SMCA that prohibits the take of rockfish to an SMCA that allows targeted rockfish take is without merit on the surface. This is really an artifact of the granularity since on a scale of 1-10 the relative level of protection should be on the order of 5 for the rockfish prohibition and 1 for the targeted rockfish allowance. In this scheme an SMR might be a 10.

Alternatively, and perhaps more in line with the SAT guidelines (which doesn't use protection levels) is to have two levels, ***protection*** or ***no protection***, where areas that allow targeted take of groundfish (i.e. Cambria SMP, and Pacific Grove SMCA) are rated as no protection, and everything else is protection. Then do the analysis based only on the MPAs with protection based on the guidelines adopted by the commission. This removes the arbitrary nature of evaluating level-of-protection. As it stands now, the level-of-protection-assessment is completely subjective. Since this concept was basically first invented in November 05, it hardly seems reasonable to apply it without a rigorous evaluation. ***Perhaps the way to evaluate this is to actually use the network once implemented, and actually measure the effects. Only at that point could the relative protection levels be borne out.***